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DIVISION OF OIL
GAS & MINING

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BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

DIVISION OF OIL, GAS
AND MINING,

Petitioner,

vs.

CO-OP MINING COMPANY,

Respondent.

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RESPONSE

Docket No. 84-040

Cause No. ACT/015/
025

Co-op Mining Company responds to the Petition of Petitioner

as follows:

FIRST DEFENSE

The Board lacks jurisdiction to hear this matter as Petitioner
has failed to comply with Section 40-8-10, U.C.A., 1953 as amended.

SECOND DEFENSE

Without waiving its First Defense, Respondent admits, denies
and alleges as follows:

1. Admits paragraphs 1 and 2.
2. Denies paragraphs 3 and 4.

3. Admits paragraph 5.

4. Admits that by letter dated March 12, 1980, the Division indicated it was prepared to request tentative approval be granted by the Board, as alleged in paragraph 6.

5. Admits paragraphs 7, 8 and 9.

6. Denies paragraphs 10 and 11.

7. Admits that representatives of Petitioner and Respondent met on or about October 4, 1982 as alleged in paragraph 12, but denies the balance thereof.

8. Admits that James W. Smith noted alleged deficiencies in a letter to Co-op dated October 25, 1982 and asked that Co-op respond by November 15, 1982, as alleged in paragraph 13, but denies the balance thereof.

9. Admits that a hearing before the Board was held on October 28, 1982 pursuant to an Order to Show Cause issued on or about October 7, 1982, as alleged in paragraph 14, but denies the balance of said paragraph.

10. Admits paragraph 15.

11. Denies paragraph 16.

12. Admits that the Division, by letter dated February 4, 1983, advised Co-op that its ACR response was incomplete and deficient and requested that additional responses be submitted within 60 days, but denies the balance of paragraph 17.

13. Denies paragraph 18.

14. Admits that Co-op submitted an additional response on July

29, 1983 and that by letter dated September 2, 1983 the Division responded as alleged in paragraph 19, but denies the balance of paragraph 19.

15. Denies paragraph 20 for lack of information.

16. Admits that by letter dated March 27, 1984 the Division informed Co-op that its permit application remained incomplete, but denies the balance of paragraph 21.

17. Realleges it Answers above in reponse to paragraph 22.

18. Denies paragraphs 23 and 24.

19. Realleges its Answers above in response to paragraph 25.

20. Denies paragraph 26.

THIRD DEFENSE

Petitioner's actions have been calculated to hinder and harass Respondent and have not been conducted in good faith.

FOURTH DEFENSE

Petitioner's actions and demands upon Respondent are unreasonable, unjust, arbitrary, capricious or discriminatory.

FIFTH DEFENSE

Petitioner's actions and demands violate the Fifth, Eighth and Fourteenth Amendments of the Constitution of the United States and Sections 7 and 9 of Art.1 of the Constitution of the State of Utah in that the procedure employed constitutes a wrongful taking of property without due process of law, denies Respondent equal protection under the laws, and/or imposes excessive fines or penalties.

SIXTH DEFENSE

The Petitioner's actions and demands fail to abide by the directive of the Utah Coal Mining and Reclamation Act of 1979 to adopt rules and regulations allowing for the distinct differences between surface and underground coal mining methods.

SEVENTH DEFENSE

The Petitioner's acts and demands do not in a reasonable manner accomplish the objectives of the Utah Coal Mining and Reclamation Act of 1979.

EIGHTH DEFENSE

The Petitioner's actions are improper and illegal as being in violation of Section 40-8-13, U.C.A., 1953 as amended.

NINTH DEFENSE

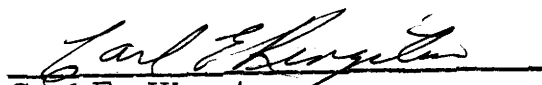
The relief requested by Petitioner would violate Section 40-8-16, U.C.A., 1953 as amended.

TENTH DEFENSE

Petitioner's actions and demands upon Respondent violate Section 40-10-10, U.C.A., 1953 as amended.


WHEREFORE, having answered Petitioner's Petition, Respondent prays that the same be dismissed, for its costs and for such other and further relief as may be just.

Dated this 6 day of June, 1984.


Carl E. Kingston
Attorney for Respondent

CERTIFICATE

I hereby certify that I mailed a copy of the foregoing Response to Barbara W. Roberts, Assistant Attorney General, attorney for Petitioner, 124 State Capitol, Salt Lake City, Utah 84114, postage prepaid, this 6 day of June 1984.



Carl E. Kingston